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Remarks/Arguments

Claims 2-6, 8-12, and 14-22 are pending in the application. Claims 2, 5, 6, 8, 9, 11, 12, and 14-22 are rejected. Claims 3, 4, and 10 are objected to.

Applicant respectfully requests that the finality of the Office action be withdrawn because "a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) ..., of any claim not amended ... in spite of the fact that other claims may have been amended to require newly cited art." MPEP § 706.07(a). Applicant submits that, for at least amended claims 2, 9, and 17, that they were simply rewritten in independent form from their base claims 1, 7 and 13, respectively, and not substantively amended. Applicant's amendment did not necessitate the new ground(s) of rejection presented in the Office action. Therefore, this Office action should not have been made final.

Claim Rejections Under 35 USC 102

Claims 2, 9, 17, 20, 5-6, 21-22, 8, 11, 12, 14-16, and 18-19 are rejected under 35 USC 102(e) as being anticipated by Hartmaier et al. (US 6304753). Applicant respectfully traverses the rejections.

Applicant submits that the subject matter of Applicant's invention as claimed is not found in Hartmaier. One aspect of Applicant's invention as claimed addresses the need for providing a mode of communication and identification that is user-specific rather than device-specific. This is found in the claims as "access to a user profile, associated with the user" (claim 2); "user-dependent interface ... based on a user-profile" (claims 9 and 17); "identifying the user with a unique VoIP-name specific to the user" (claims 20 and 21); and "identified by a user-specific VoIP-name" (claim 22).

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Although Hartmaier refers to a "user profile", this is a misnomer. Applicant submits that a more accurate name for the profile as defined in Hartmaier would be "device profile". Applicant notes that Hartmaier provides that "[f]ields 302 (ESN) and 304 (MIN) are the key fields and together identify a unique user profile record." (col. 4, lines 24-28) "The ESN/MIN pair is a voice network identification and uniquely identifies mobile unit 170 to the voice network." (col. 4, lines 11-13). "The ESN is a unique serial number assigned to the mobile unit 170 during manufacture and cannot be changed. The MIN is the telephone number of the mobile unit 170 assigned by the service provider..." (col. 4, lines 7-10) The user profile identified by the ESN/MIN pair is, of course, well known in the art and is the basis for current mobile phone communications. Applicant emphasizes that the ESN/MIN pair does not provide any identification as to the user, or the actual person, using the mobile device.

Regarding claim 2, the Office action provides that, in Hartmaier, the "user" profile has a Permanent IP (PIP) address and implies that this is somehow related to the user profile provided in Applicant's claims. Hartmaier defines the PIP as "a permanent IP address which is assigned to a mobile unit ... and is permanently associated with the mobile unit. The PIP address uniquely identifies a mobile unit to the data network 140" (col. 4, lines 20-30). Applicant emphasizes that the PIP in combination with the ESN/MIN pair does not provide any identification as to the user, or the actual person, using the mobile device, as provided in claim 2. Applicant respectfully requests reconsideration and allowance of claim 2.

Regarding claim 9, the Office action provided that the PIP is accessible via the data network. For the reasons provided above, Applicant submits that whether the PIP is or is not accessible via the data network bears no relation to the user profile, as defined by Applicant's claims, as being accessible via the internet. Applicant respectfully requests reconsideration and allowance of claim 9.

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Regarding claim 17, this claim was rejected based on the same rationality as claims 2 and 9 and Applicant repeats the forgoing reasons in favor of overcoming the rejection. Applicant respectfully requests reconsideration and allowance of claim 17.

Regarding claim 20, the Office action provides "[t]he PIP is considered as a unique VoIP-name to facilitate network communication specific to the mobile user." Applicant assumes that official notice is being taken herein as to this assertion. Applicant respectfully traverses this official notice and requests the Examiner to provide a reference that describes such an element. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

As provided above, Applicant repeats the foregoing that the PIP is specific to the device, not to the user of the mobile device, and therefore cannot be used as a user-specific identifier. Applicant respectfully requests reconsideration and allowance of claim 20.

Regarding claims 21-22, these claims were rejected based on the same rationality as claim 20 and Applicant repeats the forgoing reasons in favor of overcoming the rejections. Applicant respectfully requests reconsideration and allowance of claims 21-22.

Whereas claim 5 depends on claim 20, and is a further limitation of claim 20, claim 5 is also not anticipated by Hartmaier. Applicant respectfully requests reconsideration and allowance of claim 5.

Regarding claim 6, the Office action provides that "a caller initiates from the PSTN is capable of communicating with the mobile telephone 170-fig. 1 when the mobile phone number is dialed." Again, Applicant submits that this statement reflects the device-centric thinking of the prior art. The communication in the cited reference is focused on "communicating with the mobile phone" and not focused on communicating with the user, as provided by Applicant's claim 6. Claim 6 depends on claim 20 which provides the user profile used to communicate with the user regardless as to what device, mobile or otherwise, the user currently has access to.

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One striking benefit, among others, provided by claim 6 and others, is that by dialing the telephone number of the user, the user profile will be accessed to determine which device is currently associated with the user, which can change at the will of the user.

Whereas claim 8 depends on claim 20, and is a further limitation of claim 20, claim 8 is also not anticipated by Hartmaier. Applicant respectfully requests reconsideration and allowance of claim 6.

Whereas claims 8, 11, and 12, depend from claim 21, and are further limitations of claim 21, claims 8, 11, and 12, are also not anticipated by Hartmaier. Applicant respectfully requests reconsideration and allowance of claims 8, 11, and 12.

Whereas claims 14, 15, 16, 18 and 19, depend from claim 22, and are further limitations of claim 22, claims 14, 15, 16, 18 and 19, are also not anticipated by Hartmaier. Applicant respectfully requests reconsideration and allowance of claims 14, 15, 16, 18 and 19.

Further, regarding claim 19, the Office action provides that the PIP "field is configured as a way to provide user-dependent interface." For the reasons provided above, Applicant submits that the PIP field is a way to provide a device-dependent interface, not a user-dependent interface. One striking benefit, among others, provided by claim 19 and others, is that the user interface application uses the user profile to provide the user with the same interface regardless of which device the user is currently using. (See Applicant's Specification page 10, lines 11-15, among others). The Office action provides no specific reference as to how Hartmaier defines a user interface, and Applicant is unable to find such reference. Applicant respectfully requests the Examiner to provide a reference in Hartmaier that describes such a user interface.

In view of the foregoing reasons for distinguishing over the cited references, Applicant has not raised other possible grounds for traversing the rejections, and therefore nothing herein

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should be deemed as acquiescence in any rejection or waiver of arguments not expressed herein.

Allowable Subject Matter

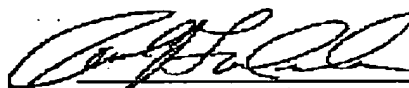
Applicant notes that claims 3, 4 and 10 are allowable if rewritten in independent form including all of the limitations of their respective base claims and any intervening claims. For the reasons provided above for overcoming the rejection of the base claims, Applicant submits that claims 3, 4, and 10 are allowable without being rewritten.

CONCLUSION

Applicant submits that in view of the foregoing amendments, the application is in condition for allowance, and favorable action is respectfully requested. The Commissioner is hereby authorized to charge any fees, including extension fees, which may be required, or credit any overpayments, to Deposit Account No. 50-1001.

Respectfully submitted,

Date: March 4, 2004



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